

2001 Indiana Election Legislation Summary

Prepared by the Indiana Election Division

This document summarizes the election-related legislation that passed the Indiana General Assembly and became law in 2001. Bills may be obtained by contacting the Legislative Information Center at 200 West Washington Street, Ste. 230, Indianapolis, Indiana 46204-2731; (317) 232-9856, or by downloading documents from the Access Indiana homepage: www.state.in.us/legislative.

The 2001 Regular Session of the Indiana General Assembly enacted the following election-related bills:

- **Senate Enrolled Act 268:** Voting Systems
- **Senate Enrolled Act 300:** Recounts for Precinct Committeemen
- **Senate Enrolled Act 301:** Candidate Challenges
- **Senate Enrolled Act 329:** Candidate Filing Deadlines
- **Senate Enrolled Act 395:** Small Town Primaries
- **Senate Enrolled Act 448:** Address Confidentiality Program
- **House Enrolled Act 1001 (Budget Bill):** \$4,000,000 designated from the Build Indiana Fund for "Local Election Equipment Matching Grants" and \$5,000,000 designated from the Build Indiana Fund for "Local Election and Voter Registration Equipment."
- **House Enrolled Act 1170:** Bureau of Motor Vehicles
- **House Enrolled Act 1510:** Voter Registration
- **House Enrolled Act 1776:** Redistricting for Indiana House and Indiana Senate
- **House Enrolled Act 2009:** Board of Registration for Tippecanoe County

VOTING SYSTEMS

The legislature established a voting system improvement fund to reimburse counties for the purchase, lease-purchase, or lease of new, upgraded, or expanded voting systems after June 30, 2001. The voting system improvement fund will consist of appropriations made by the General Assembly, any federal money received by the state for voting systems improvement, and the proceeds of any bonds issued by the Indiana Bond Bank for improvement of voting system.

The Indiana Department of Administration shall award quantity purchase agreements to voting system vendors for use by counties to purchase, lease-purchase, or lease new voting systems or an upgrade or expansion of an existing voting system. A county may be reimbursed 50% of the cost of a new, or an upgraded or expanded voting systems. If a county lease-purchases or leases a new or upgraded or expanded voting system, each year the county may be reimbursed 50% of its annual lease-purchase or lease costs.

Only the funds, if any, received from the federal government may be used to reimburse counties for 50% of the cost of new, upgraded or expanded voting systems, incurred between January 1, 1998, and before July 1, 2001.

After June 30, 2001, the Indiana Election Commission may not approve applications for certification of punch card voting systems for use in Indiana. In addition, the Indiana Election Commission shall prohibit the use of punch card voting systems in Indiana effective December 31, 2005 if the Commission determines that the amount of appropriations made to the voting systems improvement fund, and the amount of money deposited in the fund, is not less than \$5,000,000 on July 1, 2003.

The legislature designated \$4,000,000 from the Build Indiana Fund for "Local Election Equipment Matching Grants." Reimbursements from this fund are subject to the approval of each application by the State Budget Agency, after review of the State Budget Committee. Payments from the voting system improvement fund may not be made after January 1, 2006. To receive reimbursement from the fund, a county must make an application to the State Budget Agency on a form approved by the State Budget Agency not later than January 1, 2003. SEA 268 (statutes affected: IC 3-5, 3-10 and 3-11; creates new IC 3-11-6.5)

VOTER REGISTRATION

Statewide Voter Registration File

This legislation directs the Election Division to create an on-line statewide voter registration file with county control over entry and maintenance of county voter registration data as follows:

- (1) The Election Division shall maintain a statewide voter registration file so that the file is accessible by the Election Division and county voter registration offices through a secure connection over the Internet not later than July 1, 2004;
- (2) County voter registration offices shall transmit voter registration information to the Election Division over the Internet, in a manner and method prescribed by the Election Division, through a secure connection to the statewide voter registration file, not later than July 1, 2004;
- (3) The Election Division shall format the statewide voter registration file so that only the county voter registration office of a particular county is able to change data in the file for that particular county's voters;
- (4) The Election Commission may delay implementation of all or any part of the operation of the statewide voter registration file by adopting a resolution that states the reasons for the delay and establishes a new deadline for implementation; and
- (5) The Election Commission is not required to provide direct public access to the statewide voter registration file over the Internet.

The legislature designated \$5,000,000 from the Build Indiana Fund for “Local Election and Voter Registration Equipment.” The State Budget Committee must approve the release of these funds for the purpose of implementing the statewide voter registration file. The Election Division and the Election Commission will work with the Task Force for Election Integrity, state legislators, local voter registration officials, and vendors in developing a plan for implementing a statewide voter file pursuant to this legislation. HEA 1510 (statutes affected: IC 3-7, 3-10, 3-11)

Election Division to Make Voter Registration Forms Available From Website

New legislation requires the Election Division to make voter registration forms available on the Internet website maintained by the Division so that the forms can be downloaded from its website. The legislation does not provide for direct registration from the website. The form would be downloaded from the website, printed, signed and forwarded to the appropriate county voter registration office or to the Election Division. HEA 1510 (statutes affected: 3-7-31-1)

Voter Registration Forms No Longer Have to be Printed on Card Stock

The statutory requirement that voter registration forms be printed on durable card stock was repealed by the legislature. HEA 1510 (repealing IC 3-7-31-6)

Department of Health and Department of Corrections to Establish Electronic Link

The Indiana Department of Health and the Indiana Department of Corrections shall make information concerning deceased voters and incarcerated individuals available to the Election Division electronically. HEA 1510 (statutes affected: IC 3-7-45-8 and IC 3-7-46-4)

Unique Identifier

New legislation establishes a unique voter registration “identifier” to assist in the elimination of duplicate registrations. Effective July 1, 2001, an individual applying to register to vote is **required** to provide a “voter’s identification number.” This number must either be an Indiana driver’s license number or an identification card number as issued by the Indiana Bureau of Motor Vehicles (BMV). If an individual does not have a BMV-issued drivers license or identification card, the individual must provide the last four digits of his or her social security number as a voter identification number.

During an election, a precinct election clerk shall explain the voter identification number to each voter and request that each voter write a voter’s identification number on the poll book.

The clerk must explain that a voter is ***not required*** to provide a voter identification number at the polls in order to vote. If a voter does give a voter's identification number, then the clerk or board shall update the voter's registration to include that information. HEA 1510 (statutes affected: 3-5-2-50.1, 3-7, added IC 3-7-13-13, IC 3-10 and IC 3-11)

Tippecanoe County Only

Legislation abolished the current County Election Board and Board of Registration in Tippecanoe County. This legislation also created a new Board of Elections and Registration. HEA 2009 (statutes affected: IC 3-5-2-16.2, IC 3-6, IC 3-7-12)

CANDIDATES

Candidate Filing Deadlines

A petition of nomination must be filed with the clerk or board for certification of petition signatures not later than noon June 30 before a general or municipal election. The clerk or board shall certify the signatures on a petition of nomination and the clerk or board, or the candidate, must file the petition of nomination with the election division or circuit court clerk not later than noon July 15. A candidate may withdraw a petition of nomination not later than noon July 15.

The names of candidates nominated by a party at its state convention must also be certified to the Election Division not later than noon July 15.

Action to fill an early candidate vacancy that exists after the primary must be taken by noon June 30. The selection of this candidate must be certified not later than noon July 3. This does not apply to a candidate vacancy created by the death of a candidate, the withdrawal of a candidate, or the disqualification of a candidate that exists before the thirtieth day before a general, municipal or special election.

If a party whose candidate in the last election for Secretary of State received between 2% and 10% of the votes cast (currently the Libertarian Party) fails to nominate a candidate at its state convention then the state committee of the party shall fill the candidate vacancy not later than noon June 30 before election day. The selection of this candidate must be certified to the election division not later than noon July 3. SEA 329 (statutes affected IC 3-8 and IC 3-13)

Candidate Challenges

The legislature clarified when candidate challenges must be filed. A statement challenging the validity of a declaration of candidacy for the primary must be filed with the Election Division or the County Election Board not later than noon 67 days before the primary election. The Election Commission or County Election Board must rule on such a challenge not later than noon 54 days before the primary election.

A statement challenging the validity of either a petition of nomination or a certificate of candidate selection to fill an early candidate vacancy must be filed with the Election Division or County Election Board not later than noon 74 days before the general or municipal election. The Election Commission or County Election Board must rule on such a challenge not later than noon 60 days before the general or municipal election.

A statement challenging the validity of a declaration of intent to be a write-in candidate must be filed with the Election Division or County Election Board not later than noon 14 days before election day and decided not later than noon 7 days before the election. A statement challenging the validity of a certificate of candidate selection to fill a late candidate vacancy must be filed with the Election Division or County Election Board not later than noon 14 days before election day. Because of the lateness of the date that such a certificate may be filed, the statute does not specify a date by which such a challenge must be ruled upon. SEA 301 (statutes affected: IC 3-8 and IC 3-13)

Determining Political Party for Primary Candidate or Political Appointment

The legislature established the standard for determining the political party affiliation of a candidate who files a declaration of candidacy for a primary election. The political party affiliation of such candidate shall be deemed to be:

- (1) the political party whose primary the candidate or appointee most recently voted; or
- (2) the political party of the county chairman who certifies that the candidate or appointee is a member of that political party.

If a candidate has never voted in a primary election, the political party claimed by the candidate determines his or her party affiliation. HEA 1510 and SEA 395 (statutes affected: IC 3-8-2-7)

Precinct Committeemen Recount

A candidate for election to precinct committeeman or state convention delegate is now entitled to have the votes cast for that office recounted under IC 3-12-6. The political party of the candidate, in accordance with any applicable party rules, would still ultimately determine the winner of an election to a political party office. SEA 300 (statute affected: IC 3-12-6-1.5)

CAMPAIGN FINANCE

Statement of Organization

The legislature clarified when a candidate committee's statement of organization is to be filed. This change was made necessary because of a statutory anomaly that required Libertarian Party candidates to file their campaign finance reports prior to their statement of organization.

Specifically, the statute, as amended, provides that a statement of organization must be filed not later than the earlier of the following:

- (1) Noon 10 days after becoming a candidate;
- (2) Noon 7 days after the final date and hour for filing any of the following, whichever applies to the candidate: a declaration of candidacy under IC 3-8-2, a petition of nomination under IC 3-8-6, a certificate of nomination under IC 3-8-7-8, a certificate of candidate selection to fill a ballot vacancy under IC 3-13-1 or IC 3-13-2, or a declaration of intent to be a write-in candidate under IC 3-8-2;
- (3) The date a candidate is required to file the candidate's first campaign finance report under IC 3-9-5.

HEA 1510 (statutes affected: IC 3-9-1-5)

Campaign Finance Reports for Write-in Candidates

The legislature clarified a potential ambiguity in statute. Prior statute provided that a candidate is exempt from filing campaign finance reports, except for an annual report, in a year the candidate is not on the ballot. The legislature clarified that this general exception for candidates does not apply to write-in candidates who file a declaration of candidacy in an election year even though, technically, they do not appear on the ballot.

Write-in candidates must file all required campaign finance reports even though their name does not appear on the ballot. HEA 1510 (statutes affected: IC 3-9-5-9)

REDISTRICTING

Congressional Redistricting

As a result of the census, Indiana must establish new congressional districts. Because Indiana is not growing as fast as some other areas in the country, Indiana's congressional districts must be reduced from 10 to 9.

Since no bill establishing the new congressional districts passed the legislature, the drawing of new district boundaries was assigned by statute to a redistricting commission. This commission is composed of:

- Senate President Pro Tempore Robert D. Garton (R-Columbus),
- Senate Elections Committee Chairwoman Sue Landske (R-Cedar Lake),

- Speaker of the House John Gregg (D-Sandborn),
- House Elections Committee Chairman Tom Kromkowski (D-South Bend), and
- Representative Ed Mahern (D-Indianapolis) as the appointment of the Governor.

This committee met on May 10, 2001 and approved the new congressional map.

Indiana House and Senate Redistricting

HEA 1776 establishes legislative districts for the Indiana House of Representatives and the Indiana Senate and repeals the legislation that established prior districts.

This legislation ***repeals*** the statutory provision that divides Indiana into 99 House of Representative districts for elections after November 4, 2002. For purposes of future elections, there are 100 House of Representative districts.

This legislation also establishes the office of census data in the Legislative Services Agency and requires the office to:

- (1) Provide advice in defining the boundaries of census blocks in Indiana;
- (2) Assist in coordinating the state's efforts to obtain an accurate population count in each federal decennial census;
- (3) Perform other duties relating to Indiana's participation in the decennial census;
- (4) Provide assistance in the preparation and organization of decennial census data for use in congressional and state legislative redistricting;
- (5) Work with political subdivisions following each decennial census to provide information and assistance concerning special censuses, special tabulations, and corrected population counts;
- (6) Work with the Election Division, state agencies, and political subdivisions to maintain accurate information concerning the boundaries of precincts and political subdivisions;
- (7) Provide technical assistance to counties, the Election Commission, and the Election Division to comply with Indiana law concerning precinct establishment;
- (8) Maintain a geographic information system (GIS) that contains the boundaries of all precincts, legislative districts, and congressional districts; and
- (9) Perform other census and mapping research as determined by the executive director of the Legislative Services Agency or as required by the legislative council. Requires the Election Division to provide the office with certain information relating to precinct boundaries and election returns.

This legislation requires the Election Division and the office of census data to cooperate to resolve any errors found in the GIS. HEA 1776 (statutes affected: IC 2-1, IC 2-5, IC 3-5, IC 3-6, IC 3-11, IC 3-12, IC 36-4, noncode)

MISCELLANEOUS ELECTION LAW CHANGES

Precinct Election Board Qualification

The qualifications for precinct election officers have been clarified to indicate that a person is not disqualified from serving as a precinct election officer where the person's relative is not on the ballot *in the precinct* where he or she is working. If a person's relative is on the ballot in the precinct that the person proposes to work as a precinct election officer then he or she may still work if the relative is unopposed in the election. HEA 1510 (statute affected: IC 3-6-6-7)

Ballot Card Colors in Primaries

The legislature revised language regarding ballot card colors to clarify that ballot cards for different parties in the primary should be different colors. HEA 1510 (statute affected: IC 3-11-13-21)

Preservation and Use of Election Materials

The legislature clarified that the Circuit Court Clerk shall preserve election materials, and keep all seals for such materials intact, for 22 months after an election absent a court order to the contrary. However, the Circuit Court Clerk or Board of Registration is directed to unseal election materials, if necessary, in order to use the poll lists to update the voter registration records to include the voter identification number obtained during the election. HEA 1510 (statutes affected: amends IC 3-12-4-13 and IC 3-10-1-31)

Satellite Absentee Voting Precincts

A County Election Board may adopt a resolution to authorize the Circuit Court Clerk to establish satellite offices (other than the clerk's office) in the county where voters may cast absentee ballots before an absentee voter board. The county election board must adopt such a resolution by unanimous consent of the entire membership of the board. The resolution must state the locations and hours of operation of any satellite offices. The voting procedures at such offices must be substantially the same as the procedures for absentee voting at the clerk's office. HEA 1510 (statutes affected: IC 3-11-10-26, adds new section IC 3-11-10-26.3)

Small Town Primaries

The legislative body of a small town may adopt an ordinance to provide for the nomination of candidates for town offices in a primary election instead of by town convention. The town legislative body must adopt the ordinance not later than January 1 of the year in which a

municipal election is held and the town clerk-treasurer shall file a copy of the ordinance with the Circuit Court Clerk in the county which contains the greatest percentage of the town's population.

If the town legislative body adopts such an ordinance, the County Election Board in the county that contains the greatest percentage of the town's population shall conduct the primary election for the town according to statutes governing primary elections, including the times for filing a declaration of candidacy under IC 3-8-2-4. The town may not change the method of nominating candidates for town offices more than 1 time in any 12-year period.

If the town nominates candidates by town convention, the County Election Board shall furnish the secretary of the convention a list of all of the town's voters. An individual must register with the secretary of the town convention before being permitted to vote in the convention and the secretary of the convention must note that the voter has registered. An individual may not vote at more than one convention held in the town during the same election year. A person who does so commits a Class A misdemeanor and is subject to prosecution. SEA 395 (statutes affected: IC 3-8, IC 3-11, IC 3-14, IC 36-1)

Voting System Education Fund

A voting system education fund is established to reimburse counties for development and implementation of programs for educating voters about voting procedures. A county may be paid up to 50% of the amount of reasonable development and implementation costs of the program on application to the State Budget Agency, after review by the State Budget Committee.

The fund may consist of:

- (1) Federal funds remaining in the voting system improvement fund after all eligible counties have been reimbursed for voting systems and to the extent permitted by federal law; and
- (2) Money appropriated by the General Assembly.

The Election Division shall administer the fund. At this point, there is no appropriation for the voting system education fund. SEA 268 (statutes affected: added IC 3-6.5)

Address Confidentiality Program for Victims of Domestic Abuse

The legislature has created an address confidentiality program for persons who are victims of domestic abuse. A person who applies to the Indiana Attorney General and qualifies under this program may designate an address provided by the Attorney General as their address for service of process and receipt of mail.

Like an absent uniformed services voter, a participant in this program is entitled to an absentee ballot in any election that is conducted during the twelve (12) months following the date of the application. The absentee ballot application form will be revised so that a program participant can indicate their participation in the program on the form. The revised form will also allow the

program participant to provide the address designated by the Attorney General as the mailing address for receipt of the absentee ballot.

The name, address, telephone number, and any other identifying information relating to a program participant, as contained in a voting registration record, is declared confidential for purposes of Indiana's public records law. The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record except as follows:

(1) To a law enforcement agency, upon request;

(2) As directed by a court order.

(statutes affected: IC 3-11-4-6, a new article IC 5-26.5, and IC 5-14-3-4(a)(1))

Bureau of Motor Vehicles License Renewal

New legislation involving the Bureau of Motor Vehicles may impact the voter registration practices of that agency. The new legislation allows motorists to renew their licenses in any county in the state rather than just their county of residence.

In addition, the new legislation allows motorists to renew their license on-line or by mail. The Election Division will be reviewing this legislation to make sure that the implementation of the new legislation complies with state law and the National Voter Registration Act and that a procedure will be implemented to assure the delivery of registration materials to the appropriate county registration office. HEA 1170 (statutes affected: IC 6 and IC 9)